

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

JEREMY P. SPENCER

§

VS.

§

CIVIL ACTION NO. 1:18cv371

RAQUEL WEST, ET AL.

§

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Jeremy P. Spencer, a prisoner confined at the Lewis Unit, proceeding *pro se*, brought the above-styled civil rights action pursuant to 42 U.S.C. § 1983 against Raquel West and Bob Wortham.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends the action be dismissed as frivolous and for failing to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court concludes plaintiff's objections are without merit. For the reasons set forth in the Report, plaintiff's complaint is frivolous and fails to state a claim upon which relief may be granted. To the extent plaintiff's complaint may be liberally construed as


asserting potential claims properly brought in a petition for writ of habeas corpus such claims will be severed from this action to proceed as a separate petition for writ of habeas corpus.

O R D E R

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. Additionally, for the reasons set forth above, it is

ORDERED that any potential habeas corpus claims asserted in plaintiff's lawsuit are **SEVERED** from this action, and will proceed as a separate civil action. Only plaintiff's civil rights claims for monetary damages will remain in this cause number. The Clerk of Court is **DIRECTED** to assign a separate civil action number to the petition for writ of habeas corpus claims and assign the new action according to the regular practice for allotment of newly-filed civil actions. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

SIGNED this the 2 day of January, 2019.


Thad Heartfield
United States District Judge